

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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STEVEN MEYER, MARC BELL, LARRY  
MULLIGAN-GIBBS and AIMEE JOHNSON,  
on behalf of themselves and all others similarly  
situated,

Plaintiffs,

11 Civ. 6268 (ALC) (MHD)

- against -

Order

UNITED STATES TENNIS ASSOCIATION,

Defendant.

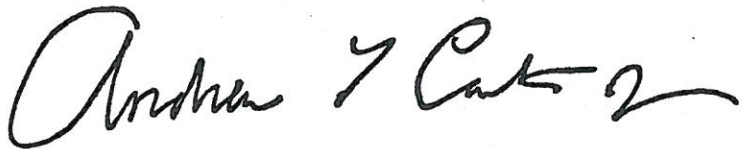
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ANDREW L. CARTER, JR., United States District Judge:

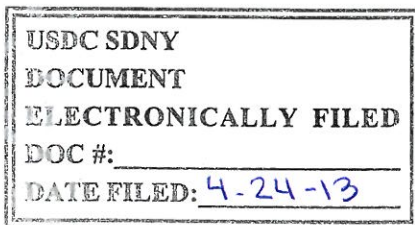
The Court authorizes the following notice to be sent to all potential members of the  
collective action.

Dated: New York, New York  
April 24, 2013

SO ORDERED.



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Andrew L. Carter, Jr.  
United States District Judge



*Meyer, et al. v. United States Tennis Association,*  
United States District Court for the Southern District of New York  
Case No. 11-cv-06268(ALC)(MHD)

**NOTICE OF LAWSUIT WITH OPPORTUNITY TO JOIN**

**TO: ALL PERSONS WHO WORKED AS UMPIRES AT THE 2009, 2010, 2011 or 2012 U.S. OPEN TENNIS TOURNAMENTS**

**RE: FAIR LABOR STANDARDS ACT LAWSUIT FILED AGAINST UNITED STATES TENNIS ASSOCIATION**

The purpose of this Notice is to inform you of the existence of a collective action lawsuit in which you potentially are “similarly situated” to the named Plaintiffs, to advise you of how your rights may be affected by this suit, and to instruct you on the procedure for participating in this suit.

**DESCRIPTION OF THE ACTION**

This lawsuit was filed on September 8, 2011, by plaintiffs Steven Meyer, Marc Bell, Larry Mulligan-Gibbs and Aimee Johnson (“Plaintiffs”) against the United States Tennis Association (“Defendant”) in the United States District Court for the Southern District of New York, Case No. 11-cv-6268 (ALC) (MHD). Plaintiffs allege that Defendant violated the federal Fair Labor Standards Act (the “FLSA”) by not paying umpires for all hours worked and time and a half (or overtime compensation) for all hours worked in excess of 40 in a given workweek. Plaintiffs also allege that Defendant misclassified umpires as “independent contractors” in 2009, 2010, 2011, and 2012. Plaintiffs seek back pay and liquidated damages from Defendant, as well as costs and attorneys’ fees. Plaintiffs also seek injunctive relief to ensure Defendant’s compliance with the FLSA at future U.S. Open events.

Defendant denies that it incorrectly classified the umpires as independent contractors and denies that it is liable to Plaintiffs for any of the back pay, liquidated damages, costs or attorneys’ fees sought.

Plaintiffs Steven Meyer, Marc Bell, Larry Mulligan-Gibbs and Aimee Johnson seek to sue on behalf of themselves and also on behalf of other umpires with whom they are similarly situated. Specifically, Plaintiffs seek to sue on behalf of all persons who work or worked as Umpires at the 2009, 2010, 2011 and 2012 U.S. Opens. Excluded from the collective is Defendant and any corporations, partnerships or other entities affiliated with Defendant.

**YOUR RIGHT TO PARTICIPATE IN THIS SUIT**

If you were an umpire at the 2009, 2010, 2011 or 2012 U.S. Open, you may join this case (that is, you may “opt-in”) by completing and mailing the attached “Consent to Become Party Plaintiff” form to the Court at the following address:

Clerk of the Court  
United States District Court, Southern District of New York  
500 Pearl Street  
New York, NY 10007



The Consent to Become a Party Plaintiff form must be sent to the Court on or before 90 days from the date of this notice mailing. If you fail to return the Consent to Become Party Plaintiff form to the Court on or before the above deadline, you may not be able to participate in this lawsuit.

### **EFFECT OF JOINING THIS CASE**

If you choose to join in this case, you will be bound by any Judgment on the Fair Labor Standards Act claims, whether it is favorable or unfavorable.

The attorneys for Plaintiffs and the collective are being paid on a contingency fee basis, which means that if there is no recovery there will be no attorneys' fees. If there is a recovery, the attorneys for the collective may receive a part of any settlement obtained or money judgment entered in favor of all members of the collective, or, in some instances, the attorneys' fees and costs may be paid by Defendant. If you sign and return the Consent to Become Party Plaintiff form attached to this Notice, you are agreeing to designate the representative plaintiffs as your agents to make decisions on your behalf concerning the litigation, the method and manner of conducting this litigation, the entering of an agreement with Plaintiffs' counsel concerning attorneys' fees and costs and all other matters pertaining to this lawsuit. These decisions and agreements made and entered into by the representative Plaintiffs will be binding on you if you join this lawsuit. However, the Court retains jurisdiction to determine the reasonableness of any attorneys' fees and costs awarded to Plaintiffs' counsel, and to determine the adequacy of the Plaintiffs' counsel.

If you opt into this case, you may be required to provide documents or information relating to your employment, or otherwise participate in written and/or oral discovery proceedings, including sitting for a deposition under oath, and/or testifying in a trial of this matter.

### **RIGHT TO RETAIN OTHER COUNSEL**

Furthermore, you can join this lawsuit by retaining counsel of your own choosing. If you do so, your attorney must file an "opt-in" consent form on your behalf by 90 days from date of this notice mailing.

### **TO STAY OUT OF THE LAWSUIT**

If you do not wish to be part of the lawsuit, you do not need to do anything. If you do not join the lawsuit, you will not be part of the case to the extent it asserts Fair Labor Standards Act claims and will not be bound by or affected by the result (whether favorable or unfavorable). Your decision not to join this case will not affect your right to bring a similar case on your own at a future time. However, claims under the FLSA must be brought within 2 years of the alleged violation, unless the employer's violation of the law was "willful," in which case the claim must be brought within 3 years.

### **NEW YORK LABOR LAW CLAIMS**

Plaintiffs also brought this lawsuit as a class action for claims under the New York Labor Law (the "NYLL") against the United States Tennis Association. The NYLL claims include claims arising from 2005 to the present for unpaid regular and overtime wages and misclassification of employees as "independent contractors."

At a later stage in this lawsuit, Plaintiffs will file a motion asking the court to certify a class of all Umpires who work or worked at the U.S. Open starting in 2005 through the present. If the court certifies the class, you will receive an additional notice in the mail advising you of your rights.

#### **NO RETALIATION PERMITTED**

Federal law prohibits Defendant from discharging or in any other manner discriminating against you because you “opt-in” to this case, or have in any other way exercised your rights under the FLSA.

#### **YOUR LEGAL REPRESENTATION IF YOU JOIN**

If you choose to join this suit, and agree to be represented by the named Plaintiffs through their attorneys, your counsel in this action will be:

**Judith L. Spanier**  
**Orin Kurtz**  
**Abbey Spanier, LLP**  
**212 East 39<sup>th</sup> Street**  
**New York, New York 10016**  
**Telephone: 212-889-3700**

**Mitchell Schley**  
**The Law Offices of Mitchell Schley, LLC**  
**245 Park Avenue, 24th Floor**  
**New York, New York 10167**  
**Telephone: 212-672-1848**

#### **FURTHER INFORMATION**

Further information about this Notice, the deadline for filing a Consent to Become Party Plaintiff, or answers to questions concerning this lawsuit may be obtained by writing or phoning the Plaintiffs’ counsel at the telephone number and address stated above.

THIS NOTICE AND ITS CONTENTS HAVE BEEN AUTHORIZED BY THE FEDERAL DISTRICT COURT, HONORABLE ANDREW L. CARTER. THE COURT HAS TAKEN NO POSITION IN THIS CASE REGARDING THE MERITS OF THE PLAINTIFFS’ CLAIMS OR DEFENDANT’S DEFENSES.

**CONSENT TO BECOME PARTY PLAINTIFF**  
***Meyer, et al. v. United States Tennis Association***  
**Case No. 1:11-cv-06268-ALC-MHD (S.D.N.Y.)**

I consent to be a party plaintiff in a lawsuit against Defendant United States Tennis Association and other related entities and individuals in order to seek redress for unpaid overtime compensation pursuant to the Fair Labor Standards Act, 29 U.S.C. §216(b), any other claims under the Fair Labor Standards Act, and any benefits under the Fair Labor Standards Act including but not limited to liquidated damages. I hereby designate Abbey Spanier, LLP and the Law Offices of Mitchell Schley, LLC, to represent me in such a lawsuit.

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Signature

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Full Legal Name (Print)

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Address

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City, State and Zip Code

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Telephone Number

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E-mail Address

If you send this form, please send it by 90 days from the date of this notice mailing to:

**Clerk of the Court**  
**United States District Court**  
**Southern District of New York**  
**Attn: U.S. Open Umpires Collective Action Lawsuit**  
**500 Pearl Street**  
**New York, NY 10007**